APPEAL NO. 020468
FILED MARCH 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 29, 2002. The hearing officer determined that the appellant (claimant) had sustained an injury "in the form of a laceration" but that the injury "did not include . . . a lumbar strain or disc dessication at L5-S1"; that the claimant had not timely reported his injury and did not have good cause for failing to do so; and that the claimant did not have disability.

The claimant appealed, asserting that the hearing was "unfair" because two of his exhibits had been excluded for lack of timely exchange and that a respondent (carrier) witness was allowed to testify. The claimant asks us to reverse the hearing officer's decision because he did "not understand all these rules." The carrier responds to the points raised by the claimant and urges affirmance.

DECISION

Affirmed.

The claimant, a sheet metal worker, sustained a minor laceration to his back when he was struck in the back by a hanger rod. Although the claimant testified that he reported the injury to his foreman the same day, the evidence on that point and why the claimant left the job five weeks later is in conflict.

The claimant clearly did not exchange the witness statement and a doctor's report within 15 days of the benefit review conference as required by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 142.13(c) (Rule 142.13(c)). The hearing officer did not abuse his discretion in excluding the offered exhibits. The claimant argues that if his two exhibits are excluded then the carrier's witness should not be allowed to testify because the claimant had not been informed of the witness until the day before the hearing. Whether that is true (the carrier denies it) is uncertain because the witness was identified at the beginning of the CCH and was allowed to testify without objection from the claimant or ombudsman. The claimant's complaint on this basis was not preserved for appeal. The claimant contends that he did not get a fair hearing because he does not "understand all these rules." We have long held that ignorance of the applicable law and rules does not constitute an excuse for failure to comply with them. Texas Workers' Compensation Commission Appeal No. 93551, decided August 19, 1993.

On the merits, the hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385

S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Edward Vilano
Appeals Judge